

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF:	:
	:
Escobar Rincon, Inc.	:
t/a La Lomita Dos	: Show Cause
308 Pennsylvania Ave, SE	: Hearing
Retailer CR	: (Status)
License No. 15387	:
Case No. 13-CMP-00105	:

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May 15, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairman Ruthanne Miller, presiding.

PRESENT

- RUTHANNE MILLER, Chairperson
- NICK ALBERTI, Member
- DONALD BROOKS, Member
- MICHAEL SILVERSTEIN, Member

ALSO PRESENT:

- AMY SCHMIDT, OAG

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P-R-O-C-E-E-D-I-N-G-S

(9:47 a.m.)

CHAIRPERSON MILLER: Next case on the morning calender is Case Number 13-CMP-00105. La Lomita Dos located at 308 Pennsylvania Ave, Southeast. License Number 15387 located in ANC 6B.

Good morning, would you identify yourselves for the record please?

MR. AMAYA: Eric Amaya and this is my restaurant.

CHAIRPERSON MILLER: Okay.

MS. SCHMIDT: Good morning, Amy Schmidt, Assistant Attorney General, I'm standing in for Walter Adams.

CHAIRPERSON MILLER: All right. Mr. Amaya, did you get notice of this hearing?

MR. AMAYA: Yes, I did.

CHAIRPERSON MILLER: Okay. Did you read it and understand it.

MR. AMAYA: I did.

CHAIRPERSON MILLER: Okay, so

1 we're going to move that notice into the  
2 record. I'm not hearing any objection. Okay,  
3 are there any preliminary matters?

4 MS. SCHMIDT: Yes, there are. We  
5 have an Offer in Compromise which we would  
6 like to address to the Board today.

7 CHAIRPERSON MILLER: Okay.

8 MS. SCHMIDT: this Offer in  
9 Compromise consists of, for Charge 1, a \$3,000  
10 fine, a ten days suspension total, five days  
11 of it suspended and five days to be served.

12 For Charge 2, a \$2,000 fine  
13 another total ten day suspension, five days  
14 suspended, five days stayed, I'm sorry, and  
15 five days served. And I meant that for Charge  
16 1 also, not to confuse people.

17 And for the third charge, a \$2,000  
18 fine and a five day suspension total with  
19 three days stayed and two days served. So the  
20 total would be a \$7,000 fine and a 15 day  
21 suspension with 12 days being served.

22 I apologize, I think I just

1 confused myself. The total is what it is.

2 Fifteen days suspension, 12 days served. And  
3 the 12 days to start May 26th.

4 MEMBER SILVERSTEIN: Ms. Schmidt,  
5 is your math correct there?

6 MS. SCHMIDT: And that's what I  
7 was trying to say. Okay, so let's go --

8 MEMBER SILVERSTEIN: On the total  
9 suspension I get 25 and 12, so.

10 MS. SCHMIDT: No, no. It's five  
11 days, okay.

12 MEMBER SILVERSTEIN: Ten and five,  
13 ten and five and five and two. Is that  
14 correct?

15 MS. SCHMIDT: I'm sorry, I misread  
16 what the notes were given to me. It's five  
17 days, let's go back to Charge 1. It says five  
18 days suspended, all to be served.

19 And then Charge 2, five days  
20 suspension and all five to be served.

21 And then Charge 3, a five day  
22 suspension, two days to be served and three

1 stayed.

2 MEMBER SILVERSTEIN: Very well.

3 MEMBER ALBERTI: Just so I'm

4 clear, Charge 3, it's five days suspension,

5 three stayed and two served, is that correct?

6 MS. SCHMIDT: Read it, three

7 stayed and two served on Charge 3, yes.

8 MEMBER ALBERTI: And it's five

9 days on Charge 2 suspension and five days

10 suspension on Charge 1, is that correct?

11 MS. SCHMIDT: Yes.

12 MEMBER ALBERTI: Thank you.

13 MS. SCHMIDT: So it's a 12 day

14 suspension.

15 MEMBER SILVERSTEIN: Yes, okay.

16 CHAIRPERSON MILLER: And when

17 would the payment be made?

18 MS. SCHMIDT: He could pay it

19 today.

20 CHAIRPERSON MILLER: Okay. Mr.

21 Amaya, I want to make sure that you're

22 agreeable to the Offer in Compromise that's

1       been represented to us by the Government.

2                   Okay, my understanding is the  
3       total fine would be \$7,000 for all three  
4       charges, paid today. And 12 days your license  
5       would be suspended, starting May 26th, 2013 to  
6       run continuously.

7                   MR. AMAYA:   A --

8                   CHAIRPERSON MILLER:   What?

9                   MR. AMAYA:   Will start on May 26th  
10       and will end on the 6th of next month, June?

11                   CHAIRPERSON MILLER:   May 26th  
12       through June 6th?

13                   (Off record comments)

14                   MEMBER BROOKS:   I have a question,  
15       I just want to be sure. Are you opened seven  
16       days a week, sir?

17                   MR. AMAYA:   Yes.

18                   MEMBER BROOKS:   Okay. Thank you,  
19       Madam Chair.

20                   CHAIRPERSON MILLER:   Okay, any  
21       other questions? And, Mr. Amaya, do you  
22       understand that you waive your right to a

1 hearing by entering into a Offer in  
2 Compromise?

3 Do you understand that you waive  
4 your right to a hearing by entering into this  
5 Offer in Compromise?

6 (No audible response)

7 CHAIRPERSON MILLER: Yes, okay.

8 All right, any other points that the parties  
9 want to bring to the attention of the Board?  
10 Okay.

11 Not hearing, any other questions  
12 Board members? Okay, I would move that we  
13 approve this Offer in Compromise of \$7,000 for  
14 all three charges payable today and Licensee  
15 will serve, will have his license suspended  
16 for 12 days beginning May 26th through June  
17 6th, 2013. Do I have a second?

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Okay, Mr.  
20 Brooks has seconded the motion, all those in  
21 favor say aye?

22 (Chorus of ayes)

1 CHAIRPERSON MILLER: All those  
2 opposed? All those abstaining? The motion  
3 passes, 4, 0, 0.

4 (Off record comments)

5 CHAIRPERSON MILLER: Okay, this  
6 one was a little bit confusing and I want to  
7 make sure that I actually said it correctly so  
8 I'm going to redo this motion. Do you have a  
9 comment, Ms. Schmidt?

10 MS. SCHMIDT: No, I understand the  
11 confusion based on what I've given you.

12 CHAIRPERSON MILLER: Okay. So I  
13 just want to do this again. It is a motion to  
14 accept the Offer in Compromise and I just want  
15 to make sure that I've read that correctly.

16 The total, as I said, was \$7,000  
17 fine. And I'm not sure that I had the days  
18 stated correctly, but they would be 15 days  
19 suspension with 12 days served and three days  
20 stayed.

21 Charge 1 was a \$3,000 fine, five  
22 days suspension, five days served.

1 Charge 2, \$2,000 fine, five day  
2 suspension, five days served.

3 And Charge 3 is \$2,000 fine, five  
4 day suspended and two days served.

5 So we still have a quorum here.  
6 So let's take a vote on that motion as I just  
7 articulated. Is there a second?

8 MEMBER BROOKS: Second.

9 CHAIRPERSON MILLER: Okay, Mr.  
10 Brooks, has seconded the motion. All those in  
11 favor say aye.

12 (Chorus of ayes)

13 CHAIRPERSON MILLER: All those  
14 opposed? All those abstaining? All right,  
15 motion passes 3, 0, 0. So I think that's  
16 clearer now. Okay, thank you.

17 (Whereupon, the hearing in the  
18 above-mentioned matter was adjourned at 9:57  
19 a.m.)

20  
21  
22

<b>A</b>	<b>Chair</b> 6:19 <b>Chairman</b> 1:14 <b>Chairperson</b> 1:17 2:3,12,16,19,22 3:7 5:16,20 6:8,11 6:20 7:7,19 8:1,5 8:12 9:9,13 <b>charge</b> 3:9,12,15 3:17 4:17,19,21 5:4,7,9,10 8:21 9:1,3 <b>charges</b> 6:4 7:14 <b>Chorus</b> 7:22 9:12 <b>clear</b> 5:4 <b>clearer</b> 9:16 <b>COLUMBIA</b> 1:1 <b>comment</b> 8:9 <b>comments</b> 6:13 8:4 <b>Compromise</b> 3:5,9 5:22 7:2,5,13 8:14 <b>confuse</b> 3:16 <b>confused</b> 4:1 <b>confusing</b> 8:6 <b>confusion</b> 8:11 <b>consists</b> 3:9 <b>continuously</b> 6:6 <b>Control</b> 1:2,12,13 <b>correct</b> 4:5,14 5:5 5:10 <b>correctly</b> 8:7,15,18 <b>CR</b> 1:8	<b>entering</b> 7:1,4 <b>Eric</b> 2:10 <b>Escobar</b> 1:6	<b>F</b>	<b>favor</b> 7:21 9:11 <b>Fifteen</b> 4:2 <b>fine</b> 3:10,12,18,20 6:3 8:17,21 9:1,3 <b>five</b> 3:10,11,13,14 3:15,18 4:10,12 4:13,13,16,17,19 4:20,21 5:4,8,9 8:21,22 9:1,2,3	<b>G</b>	<b>General</b> 2:14 <b>given</b> 4:16 8:11 <b>go</b> 4:7,17 <b>going</b> 3:1 8:8 <b>Good</b> 2:8,13 <b>Government</b> 6:1	<b>H</b>	<b>hearing</b> 1:8,13 2:17 3:2 7:1,4,11 9:17	<b>I</b>	<b>identify</b> 2:8	<b>J</b>	<b>June</b> 6:10,12 7:16	<b>L</b>	<b>La</b> 1:7 2:5 <b>let's</b> 4:7,17 9:6 <b>license</b> 1:9 2:6 6:4 7:15 <b>Licensee</b> 7:14 <b>little</b> 8:6 <b>located</b> 2:5,7 <b>Lomita</b> 1:7 2:5	<b>M</b>	<b>Madam</b> 6:19 <b>math</b> 4:5 <b>matter</b> 1:5 9:18 <b>matters</b> 3:3	<b>N</b>	<b>meant</b> 3:15 <b>MEETING</b> 1:3 <b>Member</b> 1:18,18 1:19 4:4,8,12 5:2 5:3,8,12,15 6:14 6:18 7:18 9:8 <b>members</b> 7:12 <b>met</b> 1:13 <b>MICHAEL</b> 1:19 <b>Miller</b> 1:14,17 2:3 2:12,16,19,22 3:7 5:16,20 6:8,11,20 7:7,19 8:1,5,12 9:9,13 <b>misread</b> 4:15 <b>month</b> 6:10 <b>morning</b> 2:4,8,13 <b>motion</b> 7:20 8:2,8 8:13 9:6,10,15 <b>move</b> 3:1 7:12	<b>O</b>	<b>NICK</b> 1:18 <b>notes</b> 4:16 <b>notice</b> 2:17 3:1 <b>Number</b> 2:4,6 <b>N.W</b> 1:14	<b>O</b>	<b>OAG</b> 1:22 <b>objection</b> 3:2 <b>Offer</b> 3:5,8 5:22 7:1,5,13 8:14 <b>okay</b> 2:12,19,22 3:2 3:7 4:7,11 5:15,20 6:2,18,20 7:7,10 7:12,19 8:5,12 9:9 9:16 <b>opened</b> 6:15 <b>opposed</b> 8:2 9:14	<b>P</b>	<b>paid</b> 6:4 <b>parties</b> 7:8 <b>passes</b> 8:3 9:15 <b>pay</b> 5:18 <b>payable</b> 7:14 <b>payment</b> 5:17	<b>Pennsylvania</b> 1:8 2:6 <b>people</b> 3:16 <b>please</b> 2:9 <b>points</b> 7:8 <b>preliminary</b> 3:3 <b>PRESENT</b> 1:17,21 <b>presiding</b> 1:14 <b>P-R-O-C-E-E-D-...</b> 2:1	<b>Q</b>	<b>question</b> 6:14 <b>questions</b> 6:21 7:11 <b>quorum</b> 9:5	<b>R</b>	<b>read</b> 2:20 5:6 8:15 <b>record</b> 2:9 3:2 6:13 8:4 <b>redo</b> 8:8 <b>Reeves</b> 1:13 <b>represented</b> 6:1 <b>response</b> 7:6 <b>restaurant</b> 2:11 <b>Retailer</b> 1:8 <b>right</b> 2:16 6:22 7:4 7:8 9:14 <b>Rincon</b> 1:6 <b>Room</b> 1:13 <b>run</b> 6:6 <b>Ruthanne</b> 1:14,17	<b>S</b>	<b>says</b> 4:17 <b>Schmidt</b> 1:22 2:13 2:14 3:4,8 4:4,6 4:10,15 5:6,11,13 5:18 8:9,10 <b>SE</b> 1:8 <b>second</b> 7:17,18 9:7 9:8 <b>seconded</b> 7:20 9:10 <b>serve</b> 7:15 <b>served</b> 3:11,15,19 3:21 4:2,18,20,22 5:5,7 8:19,22 9:2 9:4
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